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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,865	02/21/2002	Uma Arunkumar	GP-302051 2760/49	7567

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EXAMINER

SHAW, PELING ANDY

ART UNIT PAPER NUMBER

2144

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/079,865

Applicant(s)

ARUNKUMAR, UMA

Examiner

Peling A. Shaw

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 30 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/30/2006 has been entered. Claims 1-22 are cancelled. Claims 23-44 are new. Claims 23-44 are currently pending.

2. Amendment received on 01/19/2006 was entered. Claim 22 was new.

3. Amendment received on 06/24/2005 was entered. Claims 1, 16 and 19 were amended.

Priority

4. This application has no priority claim made. The filing date is 02/21/2002.

Claim Rejections - 35 USC § 112, first paragraph

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 44 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the original specification and claims in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

- a. Claim 44 contains a limitation "... further comprises the customer initiating communication of the message to the customer." that is not found in the original specification or claims. The closes description in the original specification and claim language on this new amended limitation is in line 6 of the original claim 5 as quoted "...until the customer initiates delivery of the communication at the client VCU". Although the amended changes seem to be irrelevant to the application and to the applying of prior arts in the following rejection, these changes still modify the scope of the invention and introduce new subject matter into the application. It would require undue experimentation for one of ordinary skill in the networking art at the time the invention was made to be able to add and test all these functions inclusively rather than just pick a particular function for implementation. Claim 44 is read as with a limitation of "... further comprises the customer initiating delivery of the message to the customer".

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 23-27, 29-35, 37-38 and 40-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Jijina et al. (US 20030103599 A1), hereinafter referred as Jijina.

- a. Regarding claim 23, Jijina disclosed a method for notifying a customer of a message available for delivery via a client vehicle communication unit (VCU) installed in a vehicle of the customer, the method comprising the steps of: establishing a connection between a server and the client VCU (paragraph 4: wake up to receive data calls); sending a query to the client VCU from the server for an indication of whether the customer is available in the vehicle for receiving the message (paragraph 4: receive data calls when ignition is on); sending a message to the client VCU for delivery to the customer if the server receives the indication that the customer is available (paragraph 4: receive data calls when ignition is on); and if the server does not receive the indication that the customer is available for receiving the message, then performing any one or more of the following (paragraph 7: transfer to voice mail): i) sending a failed delivery message to the client VCU, ii) sending the message to the client for storage on the client VCU, or iii) retrying delivery of the message at a later time after a time interval.
- b. Regarding claim 24, Jijina disclosed the method of claim 23, wherein the indication of whether the customer is available in the vehicle for receiving the message is an ignition status (paragraph 4: receive data calls when ignition is on).
- c. Regarding claim 25, Jijina disclosed the method of claim 23, wherein the message is one of the group consisting of a voice message, a facsimile (FAX), an E-mail message, and a transfer of data (paragraph 4: receive data calls when ignition is on).

- d. Regarding claim 26, Jijina disclosed the method of claim 23, wherein the step of sending a message to the client VCU for delivery to the customer further comprises annunciating the type of communication available for delivery (paragraph 23: announcement to caller).
- e. Regarding claim 27, Jijina disclosed the method of claim 23, wherein the step of sending a message to the client VCU for delivery to the customer occurs after the vehicle ignition is turned on if the indication that the customer is available is not received by the server (paragraph 4: receive data calls when ignition is on).
- f. Regarding claim 29, Jijina disclosed the method of claim 23, wherein sending a message to the client VCU for delivery to the customer includes broadcasting an audible message to the customer inside the vehicle (paragraph 23: announcement to caller).
- g. Regarding claim 30, Jijina disclosed the method of claim 23, further comprising the step of storing a message for later annunciation to the customer on the client VCU upon the server acquiring an IGNITION OFF status (paragraphs 7 and 23-24: transfer call to voice mail).
- h. Regarding claim 31, Jijina disclosed the method of claim 23, further comprising the step of sending a code to the client VCU from the server representative of the message for later annunciation (paragraph 4: receive data).
- i. Claims 32-35, 37-38 and 41 are of the same scope as claims 23-24, 26-27 and 29-31. These are rejected for the same reasons as for claims 23-24, 26-27 and 29-31.

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- j. Regarding claim 40, Jijina disclosed the method of claim 32, further comprising the step of delaying delivery of the message to client VCU upon acquiring an IGNITION OFF status (paragraphs 7-8 and 23: transfer to voice mail).
- k. Claim 42 is of the same scope as claims 23-24. It is rejected for the same reasons as for claims 23-24.
- l. Regarding claim 43, Jijina disclosed the method of claim 42, wherein the step of sending a message to the client VCU for delivery to the customer further comprises sending ring tones to the client VCU (paragraph 23: rings).
- m. Regarding claim 44, Jijina disclosed the method of claim 42, wherein the step of sending a message to the client VCU for delivery to the customer further comprises the customer initiating communication of the message to the customer (paragraphs 23-24: answer phone or voice message).

Jijina disclosed all limitations of claims 23-27, 29-35, 37-38 and 40-44. Claims 23-27, 29-35, 37-38 and 40-44 are rejected under 35 U.S.C. 102(e).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 24, 26, 28, 30, 32, 36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over do Nascimento, JR. (US 20020128000 A1), hereinafter referred as

Nascimento in view of do Heyward et al. (US 20020042266 A1), hereinafter referred as Heyward.

- a. Nascimento shows (claim 23) a method for notifying a customer of a message available for delivery via a client vehicle communication unit (VCU) installed in a vehicle of the customer, the method comprising the steps of: establishing a connection between a server and the client VCU (Fig. 13, paragraph 95: WVCS communicate thru BS and MSC with SLDNM); and an ignition status from the client VCU as an indication of whether the customer is available in the vehicle for receiving the communication (paragraph 118: VCM is powered up when ignition switch is activate); sending a message to the client VCU for delivery to the customer if the server receives the indication that the customer is available (paragraphs 118 and 125: VCM is activated upon ignition on and provides service via SLDNM). Nascimento does not show (claim 23) acquiring, at the server, an ignition status from the client VCU; and if the server does not receive the indication that the customer is available for receiving the message, then performing any one or more of the following.
- b. Heyward shows (claim 23) acquiring, at the server, an ignition status from the client VCU (Fig. 9; paragraph 81: reporting other status information including ignition status) and (paragraph 13) stores the data packet information in an analogous art for the purpose of conserving wireless resources.
- c. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify Nascimento's functions of driving

detection/notification and location/situation-based services with Heyward's functions reporting mobile unit status, including ignition status.

- d. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the mobile unit status per Heyward's teaching in further enhancing mobile communication per Nascimento (paragraph 8) and Heyward (paragraph 9)'s teaching.
- e. Regarding claim 24, Heyward shows wherein the indication of whether the customer is available in the vehicle for receiving the message is an ignition status (Fig. 9; paragraph 81: reporting other status information including ignition status).
- f. Regarding claim 26, Nascimento shows wherein the step of sending a message to the client VCU for delivery to the customer further comprises annunciating the type of communication available for delivery (paragraph 121: VCM 108 causes audio inquiries to be made through a speaker of the vehicle or displays video inquiries on the display).
- g. Regarding claim 28, Nascimento shows further comprising the steps of periodically sending a query to the client VCU from the server if the server fails to receive the indication that the customer is available in response to previous queries (paragraph 119: inquiry periodically).
- h. Regarding claim 30, Heyward shows further comprising the step of storing a message for later annunciation to the customer on the client VCU upon the server acquiring an IGNITION OFF status (paragraph 13: stores the data packet information).

- i. Claim 32 is of the same scope as claims 23-24, 26 and 30. Claim 32 is rejected for the same reasons as for claims 23-24, 26 and 30.
- j. Regarding claim 36, Nascimento shows further comprising the step of sending an IGNITION ON message to the server from the client VCU when the ignition mode changes from an off mode another mode (paragraph 119: inquiry periodically for status).
- k. Regarding claim 39, Nascimento shows wherein the customer initiates delivery of the message with a verbal command (paragraph 109: speech recognition).

Together Nascimento and Heyward disclosed all limitations of claims 23, 24, 26, 28, 30, 32, 36 and 39. Claims 23, 24, 26, 28, 30, 32, 36 and 39 are rejected under 35 U.S.C. 103(a).

Response to Arguments

8. Applicant's arguments filed on 08/30/2006 have been fully considered, but they are not persuasive.
 - a. Applicant has cancelled previous prosecuted claims 1-22 and added new claims 23-44. Examiner has carefully reviewed the new claims against the original specification and claim language. Examiner has also reviewed the new claims against the cancelled claims 1-22. Examiner has further searched to see if any new prior arts to be used for the new claim set. Examiner has determined that the previously applied arts, i.e. Jijina, Nascimento and Heyward still stand best in showing all applicant claimed limitation. Jijina, Nascimento and Heyward are used in the above updated rejection sections on new claims 23-44.
 - b. Applicant argues that Jijina does not teach or suggest acquiring ignition status. Examiner has responded to the similar argument with item a of Response to Arguments in the office actions dated 09/08/2005, 11/01/2005 and 03/30/2006. Examiner has reviewed applicant's allegation in light of applicant's claim language and specification, and Jijina. Examiner still feels Jijina does have alleged feature. The responses as in three previous office actions still apply.
 - c. As for applicant's other argument based upon the new claim language with respect to rejections under Jijina, examiner believed the above updated rejections show Jijina has the alleged limitations.

- d. Applicant has also argued neither Nascimento nor Heyward shows acquiring ignition status. Examiner has reviewed the previous respond to the similar argument in the office action dated 03/30/2006 and would apply the response to the alleged argument.
- e. It is the Examiner's position that Applicant has not submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to claim as broadly as possible their invention, it is also the Examiner's right to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique (see item a in section 6 and items a-d in section 7). As Jijina, Nascimento and Heyward have shown the art of networking with vehicle based communication system with the presence consideration, e.g. ignition status. It is clear that Applicant must be able to submit claim language to distinguish over the prior arts used in the above rejection sections that discloses distinctive features of Applicant's claimed invention. It is suggested that Applicant compare the original specification and claim language with the cited prior art used in the rejection section above to draw an amended claim set to further the prosecution.
- f. Failure for Applicant to narrow the definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant's intent to broaden claimed invention. Examiner interprets the claim language in a scope parallel

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to the Applicant in the response. Examiner reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

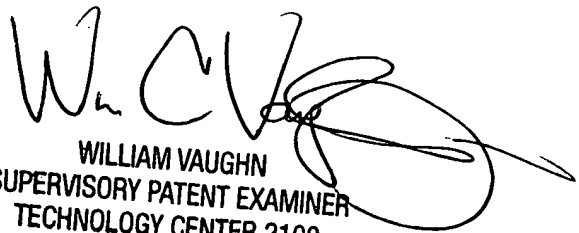
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peling A. Shaw whose telephone number is (571) 272-7968. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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